

CHAPTER I – GENERAL PROVISIONS

Chapter Overview

This chapter provides basic background for the regulations including authority, purpose, etc. A similar chapter has been included in previous versions of the model regulations. More specific guidance on specific sections is provided below.

I-A Title

These regulations will be known and shall be cited as “The Subdivision Regulations of [\[INSERT THE NAME OF THE CITY OR COUNTY\]](#)”, hereinafter referred to as “these regulations”.

I-B Authority

Authorization for these regulations is contained in the Montana Subdivision and Platting Act (hereinafter referred to as the “MSPA” or “the Act”), [Title 76, Chapter 3, MCA](#).

I-C Effective Date & Applicability

These regulations take effect upon being adopted by the governing body through a resolution or ordinance as applicable.

I-D Purpose

As identified in the Act ([76-3-102, MCA](#)), the purposes of these regulations are:

1. To promote the public health, safety, and general welfare by regulating the subdivision of land;
2. To prevent the overcrowding of land;
3. To lessen congestion in the streets and highways;
4. To provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements;
5. To require development in harmony with the natural environment;
6. To promote preservation of open space;
7. To promote cluster development approaches that minimize costs to local citizens and that promote effective and efficient provision of public services;
8. To protect the rights of property owners;
9. To require uniform monumentation of land subdivisions and transferring interests in real property by reference to a plat or certificate of survey; and
10. To provide for phased developments.

As required by [76-3-501, MCA](#), these regulations are intended to reasonably provide for:

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1. The orderly development of the jurisdictional area;
2. The coordination of roads within subdivided land with other roads, both existing and planned;
3. The dedication of land for roadways and for public utility easements;
4. The improvement of roads;
5. The provision of adequate open spaces for travel, light, air, and recreation;
6. The provision of adequate transportation, water, and storm-water drainage systems;
7. The regulation of sanitary facilities;
8. The avoidance or minimization of traffic congestion; and
9. The avoidance of subdivisions that would involve unnecessary environmental degradation and danger of injury to health, safety, or welfare by reason of natural hazard, including but not limited to fire and wildland fire, or the lack of water, drainage, access, transportation, or other public services that would necessitate an excessive expenditure of public funds for the supply of the services.

I-E Jurisdiction

These regulations govern the subdivision of land within the jurisdictional area of the governing body of [\[INSERT THE NAME OF THE CITY AND/OR COUNTY\]](#).

These regulations supplement all other regulations applicable to the subdivision of land within the [\[INSERT THE NAME OF THE CITY AND/OR COUNTY\]](#), but are not intended to displace other applicable laws, regulations, ordinances, or resolutions. Insofar as these regulations are more restrictive than any other law, these regulations shall be controlling, and if any other law is more restrictive, the more restrictive shall take precedence over a standard set forth in these regulations. Other laws, regulations or ordinances that may apply include, but are not limited to, zoning regulations, floodplain regulations, building codes, development codes, and fire codes.

I-F Severability

If any section, subsection, clause, or provision of these regulations is held invalid, the remainder of the regulations shall not be affected by such invalidity.

I.G Amendment of These Regulations

Before the governing body amends these regulations, it shall hold a public hearing on the proposed amendment. Notice of the time and place of the public hearing must be published in a newspaper of general circulation in the county not less than 15 days or more than 30 days before the date of the hearing.

I-H Enforcement of These Regulations

Any person who violates any provision of these regulations shall be guilty of a misdemeanor and punishable by a fine of not less than \$100 or more than \$500 or by imprisonment in a county jail for not more than 3 months or by both fine and imprisonment. Each sale, lease, or transfer of each separate parcel of land in violation of any provision of these regulations shall be deemed a separate and distinct offense ([76-3-301, MCA](#)).

I-I Responsibility for Interpretation

In the event that any question arises concerning any provision or the application of any provision of these regulations, the Subdivision Administrator, in consultation with the [\[INSERT THE NAME OF CITY OR COUNTY\]](#) Attorney's Office as may be necessary, shall be responsible for such interpretation and shall look to the overall intent of these regulations and the Act for guidance. The Subdivision Administrator shall provide such interpretations in writing upon request.

I-J Conflicts Within These Regulations

When specific provisions within these regulations conflict, the more stringent of these provisions shall control unless the Subdivision Administrator provides clear guidance through a written interpretation, identifying which provisions will be applied and the rationale for application based on the situation and regulations in place.

I-K Supplemental Administrative Materials and Examples

Jurisdictions will adopt regulations to suit their local needs. Many Montana governmental units post Subdivision Regulations, forms and Supplemental Administrative Materials to their websites. For additional examples, please contact the Community Technical Assistance Program at DOCCTAP@mt.gov.